

## **REMARKS**

The drawings are objected to for informalities. The disclosure is objected to for informalities. Claims 1-14 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Claims 7-10, 13-14, and 30 stand rejected under 35 U.S.C. § 102(b) as anticipated by Applicants' Admitted Prior Art (hereinafter AAPA). Claims 1-6, 11, 12, 15-29 stand rejected under 35 U.S.C. § 103(a) as unpatentable over AAPA in view of United States Patent Number 4,577,272 to Ballew et al. (hereinafter Ballew).

For the Examiner's convenience and reference, Applicants' remarks are presented in substantially the same order in which the corresponding issues were raised in the Office Action. Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references.

Applicants thank the Examiner for the telephone interview of October 10, 2007. We discussed a proposed amendment. The Examiner suggested using "processed" instead of "transferred" in the amendment. Applicants agreed to the change, and submit the proposed amendment with the changes with this response.

### **Response to objections to drawings**

The drawings are objected to for informalities. Applicants have amended Figure 5 as suggested to cure the informality.

#### Response to objections to disclosure

The disclosure is objected to for informalities. Applicants have amended paragraph 34 of the disclosure as suggested to cure the informality.

#### Response to rejections of claims under 35 U.S.C. § 101

Claims 1-14 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Applicants have amended claims 1, 4, and 7 so that each module is "...comprising executable code stored on a storage device, executed by a processor..." The amendment is fully supported by the specification. See page 8, ¶ 27-28.

The Commissioner has stated "...that computer programs embodied in a tangible medium, such as floppy diskettes, are patentable subject matter under 35 U.S.C. § 101 and must be examined under 35 U.S.C. § 102 and 103." *In re Beauregard*, 53 F.3d 1583, 1584 (Fed. Cir. 1995). Because claims 1, 4, and 7 are directed to software stored on a storage device, Applicants submit that claims 1, 4, and 7 are directed to statutory subject matter, and that claims 2, 3, 5, 6, 8-10, and 12-14 are directed to statutory subject matter as depending compliant claims. Claim 11 is canceled. Claims 15 and 16 are similarly amended.

#### Amendments to the Claims

In addition to the amendments described above, Applicants have amended claim 1 with the limitation "...indicate that tasks are processed on selected communication channels..." The

amendment is well supported by the specification. See page 12, ¶ 41.

Applicants have further amended claim 1 with the limitation “...increment a counter for a selected communication channel, decrement the counter if the task is processed...” The amendment is well supported by the specification. See page 12, ¶ 41.

Claim 1 is further amended with the limitation “...if the task is unsuccessful, maintain system resources on the failed selected target channel by maintaining a count of the counter while resubmitting the unsuccessful task to a different channel and decrementing the counter when the task is successfully processed on the different channel ...” The amendment is fully supported by the specification. See page 12, ¶ 41; 13, ¶ 45, original claim 24.

Claims 7, 15, 19, 25, and 30 are similarly amended. Claims 12, 16, 17, 22, and 26 are amended to conform to amended claims and/or to depend from pending claims. Claims 11, 21, 23, 24, and 27-29 are canceled.

#### Response to rejections of claims under 35 U.S.C. § 102

Claims 7-10, 13-14, and 30 stand rejected under 35 U.S.C. § 102(b) as anticipated by AIPA. As claims 7 and 30 are amended with limitations of claim 1, Applicants respectfully traverse this rejection below as though claims 7-10, 13-14, and 30 were rejected under 35 U.S.C. § 103(a) as unpatentable over AIPA in view of Ballew.

#### Response to rejections of claims under 35 U.S.C. § 103(a)

Claims 1-6, 11, 12, 15-29 stand rejected under 35 U.S.C. § 103(a) as unpatentable over

AAPA in view of Ballew. Applicants respectfully traverse these rejections, along with the rejections of claims 7-10, 13-14, and 30.

Claims 1, 7, 15, 19, 25 and 30 as amended include the limitation "...if the task is unsuccessful, maintain system resources on the failed selected target channel by **maintaining a count of the counter while resubmitting the unsuccessful task to a different channel and decrementing the counter when the task is successfully processed on the different channel** ...” Claim 1 as amended. See also claims 7, 15, 19, 25 and 30 as amended.

Because neither AAPA nor Ballew teach maintaining a count of the counter while resubmitting the unsuccessful task to a different channel and decrementing the counter when the task is successfully processed on the different channel, Applicants submit that claims 1, 7, 15, 19, 25 and 30 are allowable. Applicants further submit that claims 2-6, 8-10, 12-14, 16-18, 20, 22, and 26 are allowable as depending from allowable claims.

### Conclusion

As a result of the presented remarks and amendments, Applicants assert that the application is in condition for prompt allowance. Should additional information be required regarding the traversal of the rejections of the claims enumerated above, Examiner is respectfully asked to notify Applicants of such need. If any impediments to the prompt allowance of the claims can be resolved by a telephone conversation, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,

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